

**EXHIBIT 1**

**1987 CONSENT DECREE**

ME

29906 FILED

JUN 30 1987

ANN A. BIRCH, CLERK  
U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

ENTERED  
6-30-87

UNITED STATES OF AMERICA )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
RALPH C. MEDLEY, et al. )  
 )  
Defendants. )

CLA 7: 86-252-3

CONSENT DECREE

This Decree is made and entered into by and between the United States of America ("Plaintiff") and certain defendants, cross-claimants, counter-claimants, third-party plaintiffs and third-party defendants ("Settling Defendants") in this action: Milliken & Company, Unisphere Chemical Corporation, National Starch and Chemical Corporation and Chas S. Tanner Co., ABCO Industries, Inc., BASF Corporation, Ethox Chemicals, Inc., Polymer Industries, a division of Morton-Thiokol, Inc. and Tanner Chemical Company.

WHEREAS, the United States, on behalf of the Administrator of the Environmental Protection Agency ("EPA"), filed a complaint in this action on January 30, 1986, which action was brought pursuant to Sections 104(a) and (b) and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. §§9604(a) and (b) and 9607(a), for recovery of costs incurred and to be incurred by the United States in response to the release or threatened release of hazardous substances at the Medley Farm Site ("Site") near Gaffney, South Carolina and pursuant to

28 U.S.C. §2201 for a declaratory judgment of liability for all future response costs incurred in connection with the site;

WHEREAS, several parties have filed third-party complaints, cross-claims and counterclaims seeking contribution and/or indemnity for response costs for which said parties may be found liable;

WHEREAS, Plaintiff alleged that it has incurred and will incur response costs in connection with the cleanup of the Medley Farm Site as described in Plaintiff's Complaint;

WHEREAS, Plaintiff alleges that Settling Defendants are liable for past and future response costs associated with the cleanup of the Medley Farm Site;

WHEREAS, the Medley Farm Site has been proposed for inclusion on the fifth update to the National Priorities List (Appendix B to the National Oil and Hazardous Substances Contingency Plan, 40 C.F.R. Part 300 et seq.);

WHEREAS, the parties agree that a Remedial Investigation and Feasibility Study ("RI/FS") may be needed for the Medley Farm Site in order to determine the nature and extent of contamination and to determine the appropriate remedy, if any is required, at the site;

WHEREAS, G. Ross Anderson, Jr., United States District Judge, issued an Order dated 5th November, 1986, finding the Defendants Ralph C. Medley and Clyde Medley, as owner and/or operator of the Medley Site were liable for all costs incurred and to be incurred by the Plaintiff in response to the release or threatened release of hazardous substances at the Medley Farm Site pursuant to Section 107(a) of CERCLA, 42 U.S.C. Section 9607(a); and

WHEREAS, the Defendants Ralph C. Medley, Clyde Medley, Grace Medley, and Barry Medley are not parties to this Consent Decree.

WHEREAS, the parties agree that this Consent Decree constitutes a settlement only of Settling Defendants' liability for the reimbursement of response

costs incurred by the United States at the Medley Farm Site up to and including the date of lodging of the Consent Decree with the Court; and

WHEREAS, the Plaintiff and Settling Defendants agree that settlement of Settling Defendants liability for past response costs and execution of this Consent Decree without further litigation and without any admission as to liability is the most appropriate means of resolving this part of Plaintiffs' claim and is in the public interest.

NOW THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I.

JURISDICTION

This Court has subject matter jurisdiction over this matter and has personal jurisdiction over the parties hereto pursuant to 42 U.S.C. §§9604(a) and (b) and 9613(b) and 28 U.S.C. §§1345. The parties hereto agree to be bound by the terms of this Consent Decree and not to contest its validity in any subsequent proceeding arising from it.

II.

PARTIES BOUND

This Consent Decree shall apply to and be binding upon the Settling Defendants, their officers, directors, agents, servants, employees, successors in interest and assigns, and upon all persons, firms, subsidiaries, divisions, and corporations acting under or for them and upon the United States on behalf of the U.S. EPA. Each undersigned representative certifies that he or she is fully authorized to enter into this Consent Decree and to execute and to legally bind such signatory to this Consent Decree.

III.

DEFINITIONS

Certain terms used in this Consent Decree are defined as follows:

- A. The "Medley Farm Site" means the waste disposal facility owned, as of the filing of the Complaint in this action, by Ralph C. Medley located at or near County Road 72 (Burnt Gin Road) near Gaffney, Cherokee County, South Carolina.
- B. "Response Costs" means all costs, including administrative and enforcement costs, incurred by the United States pursuant to CERCLA and any other applicable laws relating to removal and response actions undertaken up to the date of lodging the Consent Decree with the Court in connection with the Medley Farm Site.
- C. Any term not otherwise defined herein shall have the definition provided in 42 U.S.C. §9601.

IV.

REIMBURSEMENT FOR PAST COSTS

Within thirty (30) days of the entry of this Consent Decree, the Settling Defendants shall pay a total of Five Hundred and Sixty Thousand Dollars (\$560,000) to the United States in reimbursement of response costs incurred by the United States with respect to the Medley Farm Site up to and including the date of the lodging of the Consent Decree. This amount shall be made payable by certified or cashiers check to the "EPA Hazardous Substances Response Trust Fund" and shall be remitted to U.S. EPA Superfund, P.O. Box 371003M,

Pittsburgh, Pennsylvania 15251. The transmittal of such payment shall reference that the payment is for response costs incurred at the Medley Farm Site and shall be accompanied by correspondence identifying United States v. Ralph C. Medley, et al., Civil Action No. 7-86-252-3, DOJ File Number 90-11-3-104, EPA File Numbers and the identity of the paying party.

V.

RELEASES

- A. In consideration of the payment set forth in Section IV above, the United States releases Settling Defendants from civil liability for the reimbursement of response costs incurred by the United States at the Medley Farm Site pursuant to Sections 104 and 107 of CERCLA, 42 U.S.C. §§9604, 9607, up to and including the date of the lodging of the Consent Decree.
- B. Nothing in this Consent Decree shall release the Settling Defendants from liability for response costs, if any, incurred by the United States after the date of the lodging of the Consent Decree in connection with any future response to the release or threatened release of hazardous substances into the environment from the Medley Farm Site including, but not limited to, conducting of a Remedial Investigation/Feasibility Study at the site and remedial action.
- C. This release shall not extend to any person or legal entity other than the Settling Defendants.
- D. Settling Defendants hereby remise and release the United States from any and all liability for actions taken and expenditures made by the United States, its agents and employees prior to the entry of this Consent Decree in responding to the release or threatened release of hazardous

substances into the environment from the Medley Farm Site. Further, Settling Defendants agree not to assert any causes of action, claims or demands against the United States for reimbursement from the Hazardous Substances Response Trust Fund, 42 U.S.C. §9631, including claims pursuant to Sections 111 and 112 of CERCLA, 42 U.S.C. §§9611, 9612, or assert any other claims or demands for sums paid in settlement of past response costs or arising from any activity performed or expenses incurred pursuant to this litigation or under this Decree.

- E. Nothing in this Consent Decree shall be deemed to constitute preauthorization of a CERCLA claim within the meaning of 40 C.F.R. §300.25(d).
- F. Pursuant to Section 122(h)(4) of CERCLA as amended by the Superfund Amendments and Reauthorization Act of 1986, the Settling Defendants executing this Consent Decree have resolved their liability to the United States for past response costs to the date of entry of this Decree and shall not be liable for claims for contribution regarding matters addressed in this Decree.

## VI.

### RESERVATION OF RIGHTS

The United States reserves all claims, demands and causes of action, past or future, judicial or administrative, in law or equity, including but not limited to, cost recovery and injunctive relief and natural resource damages, against any person or entity, including the Settling Defendants, for any matters not covered under this Decree. Nothing contained herein, except as provided in Section V, shall in any way limit or restrict the response and enforcement authority of the United States to initiate appropriate action, either judicial or administrative, against Settling Defendants or against any other person or entity not a party to this Decree under Sections 104, 106 and 107 of

CERCLA, 42 U.S.C. §§9604, 9606 and 9607. Any claim or defense which the Plaintiff or Settling Defendants may have against any other person or entity not a party to this Decree, including but not limited to, claims for indemnity or contribution, is expressly reserved.

In any subsequent action brought under CERCLA by the United States for injunctive relief or recovery of response costs incurred after entry of this Decree, relating to the release or threatened release of hazardous substances into the environment from the Medley Farm Site, the Settling Defendants shall not assert that the United States is in any manner precluded or barred from instituting such an action by the principles of res judicata or rules against claim splitting.

#### VII.

##### RETENTION OF JURISDICTION

The Court shall retain jurisdiction of this matter solely for the purpose of enforcing timely payment of the amount set forth in Section IV above.

#### VIII.

##### DOCUMENT RETENTION

The United States and the Settling Defendants agree to retain and preserve for a period of five (5) years from the date of the lodging of this Consent Decree all documents produced through discovery and documents requested in discovery but not produced.

#### IX.

##### PUBLIC NOTICE AND COMMENT

This Consent Decree is subject to the public notice and comment requirements contained in Section 122(i) of CERCLA as amended by the Superfund Amendments and Reauthorization Act of 1986.



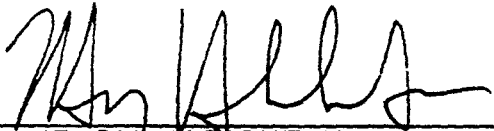
X.

TERMINATION

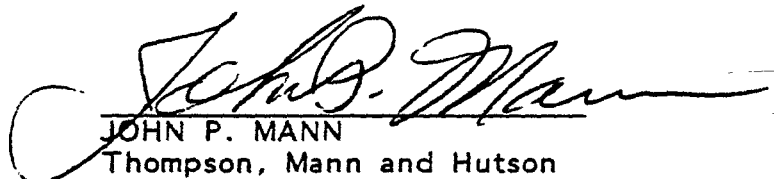
Upon timely payment of the amount set forth in Section IV above by Settling Defendants, the United States and Settling Defendants will jointly file a stipulation of dismissal, with prejudice, between the Plaintiff and the Settling Defendants, as to the United States claim for past response costs incurred through the date of lodging of this Decree and without prejudice as to the government's right to institute an action for future response, cost or injunctive or other relief under Section 104, 106 and 107 of CERCLA, 42 U.S.C.A. Sections 9604, 9606 and 9607 or under any other federal or state law involving matters not herein released pursuant to Section V. The Plaintiff and the Settling Defendants specifically reserve all actions, cross-actions, cross-complaints, third-party causes of action, and counterclaims they may have against Ralph C. Medley, Clyde Medley, Grace Medley and Barry Medley.

IN WITNESS WHEREOF, the parties by their duly authorized representatives have executed this Consent Decree and submit it to the Court, that it may be approved and entered.

FOR THE PLAINTIFF:

  
F. HENRY HABICHT II  
Assistant Attorney General  
Land and Natural Resources  
Division  
U.S. Department of Justice

FOR THE SETTLING DEFENDANTS:

  
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Attorneys for Ethox Chemicals, Inc.

APPROVED AND ENTERED THIS 29<sup>th</sup> DAY OF June, 1987.

G. Ross Anderson, Jr.  
G. ROSS ANDERSON, JR.  
United States District Judge  
District of South Carolina

A TRUE COPY  
ATTEST: ANN A. BIRCH, CLERK

BY: Carolyn Mass  
DEPUTY CLERK

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 9:00 p.m. (EDT), June 3, 1987.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. (EDT), June 4, 1987, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon The Atchison, Topeka and Santa Fe Railway Company and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, DC, June 3, 1987. By Bernard Gaillard, Agent.

Noreta R. McGee,

Secretary.

[FR Doc. 87-14638 Filed 6-25-87; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Pollution Control; Lodging of Consent Decree; Houma, LA

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that on April 27, 1987, a proposed consent decree in *United States v. City of Houma, Louisiana, et al.*, Civil Action No. 83-4377, Section D, Magistrate 2, was lodged with the United States District Court for the Eastern District of Louisiana. This consent decree settles a lawsuit filed on August 31, 1983, pursuant to section 309 of the Clean Water Act ("the Act"), 33 U.S.C. 1319, for injunctive relief and for assessment of a civil penalty against the City of Houma, Louisiana. The State of Louisiana was named as a defendant pursuant to section 309(e) of the Act, 33 U.S.C. 1319(e). The United States filed an amended and supplemental complaint on April 25, 1986, naming Terrebonne Parish, Louisiana, as an additional defendant pursuant to section 309 of the Act ("the Act"), 33 U.S.C. 1319, because the City had been merged into the Parish. The original complaint and the amended and supplemental complaint (hereafter collectively referred to as "the complaint") alleged, among other things, that the City and the Parish violated their National Pollutant Discharge Elimination System ("NPDES") permit by discharging pollutants from their municipal sewage treatment plant in excess of the limitations contained in the permit. The

complaint alleged that the City's and the Parish's violations of their NPDES permit constituted violations of section 301 of the Act, 33 U.S.C. 1311, and entitled the United States pursuant to Section 309 of the Act, 33 U.S.C. 1319, to obtain a permanent or temporary injunction and recover a civil penalty of not more than \$10,000 per day of violation.

Under the terms of the proposed consent decree, the Parish agrees to pay a civil penalty of \$25,000 with respect to the claims asserted by the United States in the complaint. The consent decree also calls for the parties to undertake a compliance program to attain and maintain compliance with the Act. The decree provides the Parish with interim effluent discharge limitations at its sewage treatment plant during the term of the decree. The decree does not resolve the contingent liability of the State of Louisiana pursuant to section 309(e) of the Act, 33 U.S.C. 1319(e).

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States v. City of Houma, Louisiana, et al.*, D.J. Ref. 90-5-1-1-1970.

The proposed consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

#### EPA Region VI

Contact: Brian Beverly, Office of the Regional Counsel, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Tx. 75202-2733 (214) 655-2129

#### United States Attorney's Office

Contact: William F. Balty, Assistant U.S. Attorney, Middle District of Louisiana, Hale Boggs Federal Building, 500 Camp Street, New Orleans, La. 70130 (504) 589-2921

Copies of the proposed consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington DC 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources

Division of the Department of Justice. Any request for a copy of the consent decree should be accompanied by a check in the amount of \$1.50 for copying costs (\$0.10 per page) payable to "United States Treasurer."

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 14514 Filed 6-25-87; 8:45 am]

BILLING CODE 4410-01-M

### Pollution Control; Lodging of Consent Decree Pursuant to Section 7003 of the Resource Conservation and Recovery Act in United States v. Waste Industries, Inc., et al.

In accordance with Departmental policy, 28 CFR 50.7, and pursuant to section 7003(d) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973(d), notice is hereby given that on June 4, 1987 a proposed Partial Consent Decree in *United States v. Waste Industries, Inc. et al.*, Civil Action No. 80-4-Civ-7, was lodged with the United States District Court for the Eastern District of North Carolina. The original complaint in this RCRA section 7003 action was filed on January 11, 1980 against Waste Industries Inc., Waste Industries of New Hanover County, Inc., the New Hanover Board of Commissioners and the individual owners and lessors (A.D. Royal, et al.) of the land used as the Flemington Landfill site ("site") in New Hanover County, North Carolina, to abate an imminent and substantial endangerment to health or the environment resulting from the disposal of solid or hazardous waste and for restitution of costs incurred by the United States with respect to conditions at the site. Subsequent to the filing of the Complaint, several defendants filed third-party complaints against the North Carolina Department of Human Resources, the North Carolina Department of Natural Resources and Community Development, several companies in waste transporting and disposal and certain residents living adjacent to the Flemington Landfill. The Partial Consent Decree and prior Preliminary Agreement of October 29, 1985 require the settling defendants (original defendants and third-party defendants) to conduct an investigation sufficient to assess fully the nature and extent of subsurface contamination associated with the Flemington Landfill site, including any discharge of contaminated groundwater, and to develop a groundwater monitoring

program. At the conclusion of this groundwater investigation, the defendants are required to conduct a study to identify remedial action alternatives at the site. (The work plans and specifications for these investigations are attached to the decree as exhibits.) The U.S. Environmental Protection Agency will then review the proposed remedial action alternatives and select the appropriate remedy. The parties are then required to attempt to negotiate implementation of the remedy and if unable to do so, all issues, including the issues of liability, the United States' claim for costs and implementation of a remedy will be submitted to the Court for resolution.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Partial Consent Decree and a public meeting will be held in the affected area during that period. The Department of Justice will consider any comments in determining whether or not to consent to the proposed settlement and may withdraw its consent to the proposed settlement if such comments disclose facts or considerations which indicate that the proposed Consent Decree is inappropriate, improper or inadequate. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States v. Waste Industries, Inc., et al.*, D.J. Ref. No. 90-7-1-2.

The proposed Partial Consent Decree and attached exhibits may be examined at the Office of the United States Attorney for the Eastern District of North Carolina, Room 874, Federal Building, 310 New Bern Avenue, Raleigh, NC. 27611 and the Office of the Regional Counsel, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. Copies of the proposed Partial Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Room 1521, U.S. Department of Justice, 9th Street & Pennsylvania Avenue, NW., Washington, DC 20530. In requesting a copy, please enclose a check in the amount of \$2.80 payable to the Treasurer of the United States.

**Roger Marzulla,**

*Deputy Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 87-14515 Filed 6-25-87; 8:45 am]

BILLING CODE 4410-01-M

## DEPARTMENT OF LABOR

### The Steering Subcommittee; Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: July 14, 1987, 9:30 a.m., Rm. S4215 A&B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210.

*Purpose:* To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Lavalley, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Signed at Washington, DC, this 22 day of June, 1987.

**Robert W. Searby,**

*Deputy Under Secretary, International Affairs.*

[FR Doc. 87-14569 Filed 6-25-87; 8:45 am]

BILLING CODE 4510-28-M

### Employment and Training Administration

#### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Abex Corp. et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period June 15, 1987 through June 19, 1987.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

#### Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

**TA-W-19,458; Abex Corp., Rochester, NY**

**TA-W-19,571; Trojan, Inc., Mt. Sterling, KY**

**TA-W-19,548-TA-W-19,549; International Resistive Co., Inc. Downingtown, PA**

**TA-W-19,533; TFI, Inc., Shelby, OH**

**TA-W-19,553; Pend Oreille Oil & Gas Co., Houston, TX**

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

**TA-W-19,712; Nowso Services, Rock Spring, WY**

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

**TA-W-19,711; Nowso Services, Denver, CO**

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

**TA-W-19,690; Amtel Consulting Co., Houston, TX**

Increased imports did not contribute importantly to workers separations at the firm.

**TA-W-19,673; Island Leather & Tweed Corp., Plainview, NY**

U.S. imports of ladies jackets and coats decreased absolutely in 1988 compared to 1985.

**TA-W-19,529; Pennzoil Co., Bradford, PA**

U.S. imports of motor gasoline and lubricants declined absolutely and relative to domestic shipments in 1988 compared to 1985.

**TA-W-19,530; Pennzoil Co., Lafayette, LA**

U.S. imports of motor gasoline and lubricants declined absolutely and relative to domestic shipments in 1988 compared to 1985.